



#12  
w/m

156-102  
DWM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
John Richard BERGAN )  
Serial No. 09/558,060 ) Examiner: B. To  
Filed: April 26, 2000 ) Group Art Unit: 2172  
For: DATA CHECKER APPARATUS ) April 19, 2004  
AND METHOD )

RECEIVED

APR 22 2004

Technology Center 2100

BRIEF ON APPEAL  
(Filed in triplicate)

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

(1) Real Party in Interest

All rights and interest in this application are assigned to Assessment Technology Inc.  
a corporation of Arizona

(2) Related Appeals and Interferences

There are no related appeals or interferences.

(3) Status of claims

All the claims (claims 1-12) have been finally rejected under 35 U.S.C. 103(a).

(4) Status of Amendments

No amendments subsequent to the final rejection have been filed.

04/20/2004 TLWU11 00000064 09558060

01 FC:2402

165.00 OP

(5) Summary of Invention

The invention is summarized in an apparatus and method of checking a database (page 7, line 20 through page 9, line 12; Figs. 3-8) to determine if necessary files and data have been entered into the database including an item list (page 11, lines 3-7; Fig. 10, items in box 398) defining possible data in the computerized management system; means for displaying the list (page 10, lines 2-10; Fig. 10, box 398) and for enabling the user to select one or more items in the item list (page 11, lines 8-9; Fig. 9, steps 420 and 422) as necessary for the management system; means (page 11, lines 11-13; Fig. 9, step 428; Fig. 10, button 410) enabling a user to request a check of the selected items; and means responsive to the request to check the selected items for conducting an inspection (page 11, lines 11-13; Fig. 9, step 430) of the management system data base to determine the presence of the selected items and for reporting the results (page 11, lines 13-14; Fig. 10, box 400) of the conducted inspection.

Dependent claims 2, 3, 5-12 are limited to checking items in a computerized educational management system such as the presence or absence of lesson plans (page 22, lines 17-20; Figs. 37 and 38, steps 1096 and 1098, box 1084), presence or absence of child accomplishment (page 22, lines 2-5; Figs. 35 and 36, steps 1026 and 1034 and box 1054) and setting a period of time during which the date or dates of the selected items correspond (page 10, line 22 through page 11, line 3; Fig. 10, box 396, button 414).

(6) Issues

The basic issue is whether the claims are obvious to one skilled in the prior art and,

Serial No. 09/558,060

more particularly, whether the prior art disclosures lead one skilled in the art to the claimed invention.

(7) Grouping of claims

General database checking - Claims 1 and 4.

With date within selected period - claims 7 and 10.

Educational management system database checking - claims 2, 3 and 5-12.

Presence or absence of lesson plans - claims 2, 6, 8 and 12.

Presence or absence of child accomplishment - claims 3, 5, 9 and 11.

With date within selected period - claims 8, 9, 11 and 12.

(8) Argument

Rejection of Claims 1, 4, 7 and 10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,835,758 (Nochur et al.)

Basically, Nochur et al. do not disclose any apparatus or method for determining if necessary files and data exist in a computerized database. Nochur et al. disclose a method and system for representing and processing physical and conceptual entities. The final office action particularly uses the disclosure of a "to-do list" and its creation and usage to hold the claims obvious.

"The user can create a to-do list which may be free-standing or attached to actionable items on a map or other document. This is accomplished via action module 204 which handles the tasks of creating and saving to-do items, and transferring relevant to-do entries from existing items or memos via database manager 25. The user can invoke the to-do list via visual interface manager 20 which passes control to action module 204. Various parameters to generate alerts and reminders--such as dates, times and

Serial No. 09/558,060

monitoring frequencies--can also be specified in action module 204. These parameters are checked against item attributes, dates attached to to-do entries, current time and date, and other variable to trigger reminders and other such messages to alert users regarding the status of various items and documents. These reminders and alerts are displayed via visual interface manager 20 and accompanied, if so specified, with audible and other signals." Nochur et al. column 10, lines 11-27.

While the "to-do" list of Nochur et al. is a list, it is not a listing of possible data in a database.

"Tasks, Plans, and other items can be delegated or assigned by one user to others for various kinds of actions such as--Comment, Do, Annotate, Discuss, Reply, etc. Deadlines for such action can be specified. Once delegated or assigned over the network, they can be tagged and monitored to see if specified actions have been taken by the times defined. If no action has been taken and reported by the recipient, the system can put out an alarm to the dispatcher to alert him/her that a specific delegated item has not been acted on or responded to. If the recipient completes the action, he/she can mark off the item as Done, or attach other status notes, and send it back to the original dispatcher. A Status Update will then inform the sender of the status of the work that was originally sent out. Such tracking and monitoring and the triggering of alerts, reminders, or updates shall be an optional feature--the option to have them on or off shall be decided by users, depending on the organizational norms for such practices. At one extreme, objects and documents can be fully passive, i.e. no tagging, tracking, or updating will be possible. At the other extreme, automatic processes can be initiated to tag and track, remind or alert senders and receivers about status and other relevant variables, and provide status update reports periodically or on an 'as needed' basis. These operations are managed by action module 204 shown in FIG. 2." Nochur et al. column 13, lines 40-64.

Concerning applicant's means for displaying the list and for enabling the user to select one or more items in the item list as necessary for the management system, the office action applies the Nochur et al. statement of column 10, lines 13-15, "This is accomplished via action module 204 which handles the tasks of creating and saving to-do items, and transferring relevant to-do entries from existing items or memos via database manager 25." While Nochur et al. displays to-do items, they do not enable the user to highlight, checkbox or otherwise select to-do items

Serial No. 09/558,060

for searching in a database.

Concerning applicant's means enabling a user to request a check of the selected items, the office action cites Nochur et al. column 10, lines 16-17: " The user can invoke the to-do list via visual interface manager 20 which passes control to action module 204." Neither the box 20 in Figs. 2, 3 and 4 of Nochur et al. nor the box 204 in Fig. 2 of Nochur et al. contain any button or procedure whatsoever by which a user can invoke an inspection of a database.

Concerning applicant's means responsive to a request to check the selected items for conducting an inspection of the management system database to determine the presence of the selected items and for reporting the results of the conducted inspection, the office action cites Nochur et al. column 13, lines 40-64:

"Tasks, Plans, and other items can be delegated or assigned by one user to others for various kinds of actions such as--Comment, Do, Annotate, Discuss, Reply, etc. Deadlines for such action can be specified. Once delegated or assigned over the network, they can be tagged and monitored to see if specified actions have been taken by the times defined. If no action has been taken and reported by the recipient, the system can put out an alarm to the dispatcher to alert him/her that a specific delegated item has not been acted on or responded to. If the recipient completes the action, he/she can mark off the item as Done, or attach other status notes, and send it back to the original dispatcher. A Status Update will then inform the sender of the status of the work that was originally sent out. Such tracking and monitoring and the triggering of alerts, reminders, or updates shall be an optional feature--the option to have them on or off shall be decided by users, depending on the organizational norms for such practices. At one extreme, objects and documents can be fully passive, i.e. no tagging, tracking, or updating will be possible. At the other extreme, automatic processes can be initiated to tag and track, remind or alert senders and receivers about status and other relevant variables, and provide status update reports periodically or on an 'as needed' basis. These operations are managed by action module 204 shown in FIG. 2."

While the cited paragraph does disclose that items "can be tagged and monitored to see if

Serial No. 09/558,060

specified actions have been taken by the times defined", this is not done in response to any request to check by a user and furthermore it appears that the monitoring refers to whether the recipient has marked the item as "Done" and not whether any item exists in a database. The office action fully admits that Nochur et al. do not teach reporting of the results of any conducted inspection; since Nochur et al. do not do any inspection of a database there would be no report of such an inspection.

Out of the four elements listed in claim 1 and the five steps listed in claim 4, virtually none, as specifically defined in claims 1 and 4, are disclosed in Nochur et al. While Nochur et al. has an item list, "to-do list", and displays the item list, the item list is not of possible data in a computerized management system database. While Nochur et al. can add dates for items to be performed and then periodically automatically determine if these items have been marked "Done" to generate reminders, there is no disclosure of any structure or procedure for a user marking items to be checked and then the user requesting an inspection of a database for the presence of these marked or selected items. While the "to-do" list itself is stored in a computer database of Nochur et al. and reminder dates and "Done" entries in this "to-do" list are periodically automatically searched to generate reminders, this does not lead one skilled in the art to applicant's specifically defined elements of claim 1 or the specifically defined steps of claim 4.

Regarding claims 7 and 10, which are dependent upon claim 1 and 4, respectively, the office action states that Nochur et al. column 6, lines 39-40 discloses means for setting a

Serial No. 09/558,060

period of one or more days. Taken in full context, column 6, lines 34-42 state:

"Alert sub-module 174 allows users to define formats 177 and dialog boxes 176 for reminders and alert messages that will be triggered based on conditions such as: pre-defined times and dates; attributes, or changes in attributes, of items, links, maps, cases, or text documents; comparisons between attributes of one item at different times; comparisons between attributes of different items at a particular time; and system related events."

Further the office action states that Nochur et al. discloses the inspection conducting means determining the presence of the one selected item have a date within the selected period at column 10, lines 18-27:

"The user can invoke the to-do list via visual interface manager 20 which passes control to action module 204. Various parameters to generate alerts and reminders--such as dates, times and monitoring frequencies--can also be specified in action module 204. These parameters are checked against item attributes, dates attached to to-do entries, current time and date, and other variable to trigger reminders and other such messages to alert users regarding the status of various items and documents. These reminders and alerts are displayed via visual interface manager 20 and accompanied, if so specified, with audible and other signals."

While the user of Nochur et al. can insert dates for completion of a to-do item in the to-do list and the user can also specify dates, times and monitoring frequencies at which the dates in the to-do list are monitored, there still is no inspection done of any database for items selected by the user and in response to a user's request. The user in applicant's claims 7 and 10 selects the time frame in which dates in user selected items in the database must exist and Nochur et al. does not disclose search for user selected items limited within such time frames.

In view of the foregoing remarks, it is clear that claims 1, 4, 7 and 10 are clearly unobvious from the prior art and the rejection of these claims is untenable and must be

reversed.

Rejection of claims 2, 6, 8 and 12 under 35 U.S.C. §103(a) as being unpatentable over Nochur et al. in view of U.S. Patent 6,269,355 (Grimse et al.)

As noted above, claims 2, 6, 8 and 12 are further limited to inspection of an educational management database for the presence of lesson plans. It is noted that in educational systems it is important that the education of students be carefully planned and one important aspect is the use of lesson plans. The invention of claims 2, 6, 8 and 12 enables administrators, where a computerized education system is employed, to determine entry of lesson plans in the database, and particularly in claims 8 and 12 for a particular date or dates.

Since Nochur et al. do not disclose any education management system or any lesson plans for such a system, the office action combines the teaching of Grimse et al. and particularly the teaching at column 10, lines 15-41:

"FIG. 6 is a diagram illustrating a user interface 120 for a guidance system in accordance with the invention that may be used for an attendance management process. In this embodiment, an attendance management process which is typically handled by a human resources person is being modeled so that a user of the system is guided through the attendance management process with minimal knowledge about the actual process steps or the policy underlying the process. The subsequent flowcharts in FIGS. 7-10 illustrate the decision tree with its guidance pages to guide a user of the system through an employee absence problem. The guidance process may be initiated either automatically or manually. In the manual mode, the user of the system (who might be a line manager) may enter the guidance system to deal with a specific attendance problem with an employee. In this case, the user may select the appropriate employee and enter some information about the absences. In the automatic mode, the guidance system may be connected to a time and attendance tracking system and the guidance system may periodically (e.g., once a month) extract absence information from the attendance tracking system and perform some statistical analysis of the absence data. Based on the analysis, the guidance system may send an



Serial No. 09/558,060

e-mail to managers to show the absence rate within the manager's group and then ask the manager to log into the guidance system to resolve attendance issues for a particular employee."

This paragraph concerns a knowledge base system for guiding a manager handling an absence problem, i.e., issues concerning excessive absenteeism of an employee. The office action states "verifying the presence of the attendance is same as verifying the lesson plans", page 2, last paragraph. The automatic tracking of employee attendance and the performance of analysis on the absentee data does not lead one skilled in the art to modify the "to-do" list of Nochur et al. to produce a data checking apparatus or method for an educational management system wherein the user can select lesson plans from a list of possible data in a database, request a check of the database for the selected items, and in response to the request conduct an inspection of the database for the selected items.

Concerning claims 8 and 12, the above comments with respect to claims 7 and 10 are fully applicable.

It is clear that claim 2, 6, 8 and 12 are clearly patentable over the prior art and that the rejection of these claims must be reversed.

Rejection of claims 3, 5, 9 and 11 under 35 U.S.C. §103(a) as being unpatentable over Nochur et al. in view of U.S. Patent 5,864,869 (Doak et al.)

Claims 3, 5, 9 and 11 are further limited to inspection of an educational management database for the presence of child accomplishment in selected developmental areas. In educational systems it is important that the education of students be carefully monitored and

Serial No. 09/558,060

claims 3, 5, 9 and 11 enables administrators, where a computerized education system is employed, to determine entry of child accomplishment data for selected developmental areas in the database, and particularly in claims 9 and 11 for a particular date or dates.

The office action combines the teaching of Doak et al. with Nochur et al. in an attempt to overcome the failure of Nochur et al. to teach any list including child development areas. In particular the office action cites Doak et al. column 5, lines 31-35:

"In addition to the primary printed output, the weekly lesson plan, this invention also allows the user to publish: seating charts; grading schemes; teacher and parent correspondence and progress reports; class syllabi; evaluation(s). FIG. 3."

Doak et al. discloses a method and manufacture of lesson plans and classroom organizers utilizing computers and software. It employs a lesson plan database and enables a teacher to construct a series (year or less) of lesson plans based upon the database and to modify the lesson plans in accordance with daily and weekly completion of lesson plans. There is no inspection system for management selecting items from a list of possible data in a database and determining if selected items such as lesson plans for a certain period, or other data, exist in the database. While Doak et al. may enable a teacher to enter and publish progress reports or evaluations, this is not a teaching of selection by a user selecting a child development area and the checking of a database in response to a user request for presence of child accomplishment records in the selected developmental area.

Concerning claims 9 and 11, the above comments with respect to claims 7 and 10 are fully applicable.

Serial No. 09/558,060

It is clear that claims 3, 5, 9 and 11 are clearly patentable over the combined teachings of Nochur et al. and Doak et al. and that the rejection of these claims must be reversed.

CONCLUSION

Basically the office action sets forth a gross misinterpretation of the prior art. The prior art is falsely said to teach concepts of the present claims. Any fair reading to the cited prior art teachings does not reach the conclusion that the prior art teaches the elements and steps of the present claims or that the present claimed apparatus and methods are obvious from the prior art. Accordingly the rejections of claims 1-12 must be reversed.

Respectfully submitted,

By 

Donald W. Marks  
Attorney for Applicants  
Registration No. 24,218

3137 Mount Vernon Avenue  
Alexandria, VA 22305-2640  
Telephone: (703) 838-0517  
Facsimile: (703) 838-0519

Serial No. 09/558,060

APPENDIX - APPEALED CLAIMS

1           1. A data checking system for determining if necessary files and data have been entered  
2           into a computerized management system having a data base containing a plurality of files and  
3           data, the system comprising:  
4           an item list defining possible data in the computerized management system;  
5           means for displaying the list and for enabling the user to select one or more items in the  
6           item list as necessary for the management system;  
7           means enabling a user to request a check of the selected items; and  
8           means responsive to a request to check the selected items for conducting an inspection  
9           of the management system data base to determine the presence of the selected items and for  
10          reporting the results of the conducted inspection.

1           2. A data checking system as defined in claim 1 wherein the item list includes lesson plan  
2           information and the inspection conducting means determines the present or absence of lesson  
3           plans in the management system data base.

1           3. A data checking system as defined in claim 1 wherein the item list includes child  
2           developmental areas and the inspection conducting means determines the presence or absence  
3           of child accomplishment in the selected developmental areas.

Serial No. 09/558,060

1           4. A method of determining if necessary files and data have been entered into a  
2           computerized management system having a data base containing a plurality of files and data,  
3           the method comprising:  
4           displaying an item list defining possible data in the computerized management system;  
5           selecting one or more items in the displayed item list as necessary for the management  
6           system;  
7           requesting a check of the selected items;  
8           checking the data base to determine the presence of the selected items; and  
9           reporting the results of the checking of the data base.

1           5. A method as defined in claim 4 wherein the item list includes child developmental  
2           areas and the checking determines the presence or absence of child accomplishment in the  
3           selected developmental areas.

1           6. A method as defined in claim 4 wherein the item list includes lesson plan information  
2           and the checking determines the present or absence of lesson plans in the management system  
3           data base.

1           7. A data checking system as defined in claim 1 wherein one of the selected items of the  
2           possible data includes a date and further comprising:

Serial No. 09/558,060

3 means for setting a selected period of one or more days,  
4 said inspection conducting means determining the presence of the one selected item  
5 having a date within the selected period.

1 8. A data checking system as defined in claim 2 wherein the lesson plan information  
2 includes lesson plans having dates and further comprising:

3 means for setting a selected period of one or more days,  
4 said inspection conducting means determining the presence of a lesson plan having a date  
5 within the selected period.

1 9. A data checking system as defined in claim 3 wherein child accomplishment data is  
2 associated with set periods of time and further comprising:

3 means for selecting a period of time of one or more days,  
4 said inspection conducting means determining the presence of child accomplishment data  
5 associated with the selected period of time.

1 10. A method as defined in claim 4 wherein one of the selected items of the possible  
2 data includes a date and further comprising the step of:

3 setting a selected period of one or more days,  
4 said checking including determining the presence of the one selected item having a date

Serial No. 09/558,060

5           within the selected period.

1                   11. A data checking system as defined in claim 5 wherein child accomplishment data is  
2           associated with set periods of time and further comprising the step of:  
3                   selecting a period of time of one or more days,  
4                   said checking including determining the presence of child accomplishment data  
5           associated with the selected period of time.

1                   12. A method as defined in claim 6 wherein the lesson plan information includes lesson  
2           plans having dates and further comprising the step of:  
3                   selecting a period of one or more days,  
4                   said checking including determining the presence of a lesson plan having a date within  
5           the selected period.

AP/ 2172  
2172



Donald W. Marks  
ATTORNEY AT LAW  
3137 Mount Vernon Avenue  
Alexandria, VA 22305-2665

Telephone: (703) 838-0517  
(800) 318-2448  
Facsimile: (703) 838-0519  
E-Mail: DMarksLaw@aol.com

April 19, 2004

RECEIVED

APR 22 2004

Technology Center 2100

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 09/558,060  
Inventor: John Richard BERGAN  
Filed: April 26, 2000  
Title: Data Checker Apparatus and Method  
Examiner: B. To  
Group Art Unit: 2172

Dear Sir:

In connection with the above-identified application, enclosed are the following:

1. Brief on Appeal (in triplicate)
2. Check for \$165.00 for the fee under 37 CFR 1.17(c) for a small entity.

Respectfully submitted,

A handwritten signature in cursive script that reads "Donald W. Marks".

Donald W. Marks